

REMARKS

By this paper, Applicant has amended claims 36, 37, 39, 41, 43, 44, 45 and 47. Applicant has not added any claims. This amendment contains no new matter. Entry of this amendment is respectfully requested.

Amendments to Correct Typographical Errors

Claims 36, 37, 39, 41, 43, 44, 45, and 47 have all been amended at subsection g. 5. to delete a the second occurrence in a row of the term "said".

Claim 42 has been amended to correct a typographical error.

Claims 43 and 47 have also been amended to fix antecedent basis problems for the terms "edge fasteners" and "shank portions".

Claim Rejections – 35 USC § 103***Claims 36, 37, 41, 42, 44, 45 and 46***

The Examiner has rejected the above-identified claims, under 35 USC § 103 as being unpatentable over Mueller, U.S. Patent No. 5,706,626 ("Mueller") in view of Horowitz, US Patent No 3.623,288.

Applicants have amended independent claims 36, 37, 41, 44 and 45 to call for boundary edging members that are "disposed on said shear-resisting element at said first and second side edges, each of said boundary edging members having an elongated leg, said boundary edging members being pierced by said shank portions of said edge fasteners through said elongated leg and thereby strengthening the connection made by said edge fasteners piercing said boundary edging members..."

By adding this limitation, Applicants believe the claims are allowable over the references cited by the Examiner. Applicants note that the boundary edging limitation added in these claims is similar to the boundary edging of claim 43. Applicants also note that the Examiner in her rejection of claim 43 noted that Mueller does not teach boundary edging members.

Claim 42 depends from claim 41, incorporating all of its limitations. Claim 46 depends from claim 45 incorporating all of its limitations. Applicants believe that by these amendments claims 36, 37, 41, 42, 44, 45 and 46 should be considered allowable.

With specific regard to claim 37, which calls for the opening in the bottom strut for the foundation anchor to be a "notch in said bottom strut that allows said bottom strut to slide into place." Applicants can find no such notch in Mueller.

The notch of claim 37 as defined by the specification at page 3, line 28, page 8, line 34 and page 10, line 5, and as shown in Figure 11, is an opening the bottom strut that communicates with the side of the bottom strut such that the shear resisting assembly can be slid in place rather than inserted over the foundation anchor. Applicants respectfully disagree with the Examiner's characterization that Mueller is formed with a notch and requests that the rejection be removed.

With specific regard to claims 39 and 40, which call for the openings in the bottom strut for the anchor bolts to be notches in the bottom strut that allow said bottom strut to slide into place. Applicants can find no such notches in Mueller. The notch of claim 39 as defined by the specification at page 3, line 28, page 8, line 34 and page 10, line 5, and as shown in Figure 11, is an opening the bottom strut that communicates with the side of the bottom strut such that the shear resisting assembly can be slid in place rather than inserted over the anchor bolt. Furthermore, the portal in the holdown of claim 40 also allows the shear resisting assembly to be slid in place. Applicant respectfully disagrees with the Examiner's characterization that Mueller is formed with a notch and a portal and requests that the rejection be removed.

With specific regard to claim 42, which calls for the holdown fasteners to be inserted only a selected distance into said first and second chords without passing all the way through, Applicants note that as taught by the specification at page 10, line 18 this is done so that the shear resisting assembly can fit closely between the studs of the wall. Applicants respectfully disagree with the Examiner's characterization that Mueller in any way suggests this means of achieving close spacing of the shear resisting assembly to the studs of the building wall. Applicants respectfully request that the rejection of claim 42 be removed.

With specific regard to independent claim 45 and dependent claim 46 which call for the shear resisting element to made from a plurality of adjoining structural panels (claim 45) and for intermediate studs to be disposed at the joints of the structural panels, Applicants respectfully note that the Examiner has not demonstrated how Mueller teaches these limitations, and so Applicants respectfully request that the Examiner remove these specific rejections.

Claim Rejections – 35 USC § 103

Claim 38

The Examiner has rejected claim 38 under 35 USC § 103 as being unpatentable over Mueller, U.S. Patent No. 5,706,626 ("Mueller") in view of Horowitz, US Patent No 3,623,288 ("Horowitz"), and Haydon, U.S. Patent 5,279,088)

Applicants have amended claim 38 in the same manner as they have amended claim 37 and therefore believe claim 38 is patentable over the cited references of Mueller and Horowitz for the same reasons stated above.

Claim Rejections – 35 USC § 103

Claims 39 and 40

The Examiner has rejected claims 39 and 40 under 35 USC § 103 as being unpatentable over Mueller, U.S. Patent No. 5,706,626 ("Mueller") in view of Horowitz, US Patent No 3.623,288 ("Horowitz"), and Hardy, U.S. Patent 6,148,583)

Applicants have amended independent claim 39 from which claim 40 depends, incorporating all of its limitations, in the same manner as they have amended claim 37 and therefore believe claims 39 and 40 are patentable over the cited references of Mueller and Horowitz for the same reasons stated above.

Claims 39 and 40 also call for the openings in the bottom strut for the anchor bolts to be notches that allows the shear resisting assembly to be slid into place. Applicants can find no such notch in Mueller. The notches of claims 39 and 40 as defined by the specification at page 3, line 28, page 8, line 34 and page 10, line 5, and as shown in Figure 11, are openings in the bottom strut that communicate with the side of the bottom strut such that the shear resisting assembly can be slid in place rather than inserted over the foundation anchor. Applicant respectfully disagrees with the Examiner's characterization that Mueller is formed with a notch and requests that the rejection be removed. In a similar manner Applicants can find no portal in Mueller that allows the shear resisting assembly to be slid into place. Applicants request the rejection on this basis also be removed.

Claim Rejections – 35 USC § 103

Claim 43

The Examiner has rejected claim 38 under 35 USC § 103 as being unpatentable over Mueller, U.S. Patent No. 5,706,626 ("Mueller") in view of Horowitz, US Patent No 3.623,288 ("Horowitz"), Utzman, U.S. Patent 5,870,870 ("Utzman"), and Yoshiyuki, Japanese Patent Reference 60-122420 (Yoshiyuki).

In relevant part the Examiner suggests taking elements from at least three different references to combine them with Mueller. The Examiner argues that Horowitz suggests that the shear resisting assembly of Mueller can be made with wood components. The Examiner argues that the shear panels of Utzman

"comprised of a membrane relatively strong in tensile strength and an adjacent layer of lower tensile strength material for cosmetic and/or other purposes" (See Utzman at column 3, line 16) corresponds to the "planar shear-resisting element made from wood" of claim 43. The Examiner also argues that the reinforcing clasp of Yoshiyuki corresponds to the boundary edging member of claim 43.

Notably, the Examiner fails to teach which of the references suggests using nails as the edge fasteners. The Yoshiyuki reference also does not teach the use of fasteners that are nails, but rather screws. Utzman, notably, does not teach using screws with wood framing. The Examiner has not suggested how all of the claimed elements are taught by the prior art, and as such, the Examiner's rejection is improper.

Furthemore, Applicants can find no suggestion in the references to modify them in the manner as the Examiner has done. Utzman modified the fasteners and the shear panel to make a stronger shear resisting assembly, and Mueller and Yoshiyuki are concerned with metal framing members and screws and as such do not suggest the improvements of the present invention when nails and wood framing members are used.

Applicants respectfully request that the rejection of the claim be removed.

Allowable Subject Matter

The Applicant would like to thank the Examiner for allowing claim 47.

Conclusion

Applicant believes the claims are currently in condition for allowance and respectfully requests the same. Please direct any calls in connection with this application to the undersigned at (510) 832-4111.

Date: July 14, 2009


Reg. No.: 41,694

Tel. No.: 510-832-4111

Fax No.: 510-832-4115

Customer No.: 498

Respectfully submitted,



Charles R. Cypher
Law Offices of James R. Cypher
405 14th Street
Suite 1607
Oakland, CA 94612

Enclosures: Payment Authorization Return Receipt Post Card.